

### ***REMARKS***

This is a full and timely response to the outstanding Office action mailed August 4, 2004. Upon entry of the amendments in this response claims 1-64 are pending. More specifically, the specification and claims 1-3, 12, and 18 are amended. These amendments are specifically described hereinafter. It is believed that the foregoing amendments add no new matter to the present application.

#### **I. Rejection of Claim 18 Under 35 U.S.C. § 101**

Claim 18 is rejected under 35 U.S. § 101 as allegedly claiming the same invention as that of claim 39 of prior U.S. Patent No. 6,671,586.

In response, Applicants have amended claim 18 to overcome this rejection. As a result, claims 18-32 are now in a condition for allowance.

#### **II. Rejections Under 35 U.S.C. §103(a)**

##### **A. Claims 1, 4-11 and 13-17**

The Office Action rejects claims 1, 4-11 and 13-17 under 35 U.S.C. §103(a) as being unpatentable over *Davis* (U.S. Patent No. 5,576,700 ) further in view of *Ehlers* (U.S. Patent No. 5,696,695). For the reasons set forth below, Applicants respectfully traverse the rejection.

##### **Independent claim 1 recites:**

1. A system which controls appliances comprising:  
at least one first transceiver identified by an identification code and  
configured to receive a radio frequency (RF) demand reduction  
control signal having the identification code;

- at least one appliance controller unit, the appliance controller unit coupled to at least one appliance and the first transceiver;
  - an appliance controller unit memory residing in the appliance controller unit, the appliance controller unit memory configured to have a unique identification code identifying the appliance controller unit such that when the RF demand reduction control signal identification code corresponds to the appliance controller unit unique identification code, the appliance coupled to the appliance controller unit is shut off;
  - a second transceiver coupled to a meter, the meter coupled to the appliance, and the second transceiver configured to generate a second RF signal corresponding to an amount of demand detected by the meter; and
  - a plurality of network transceivers configured to communicate the second RF signal to an energy management controller that initiated the RF demand reduction control signal;
- wherein the energy management controller determines a change in the demand detected by the meter before transmission of the demand reduction control signal and after the received RF signal corresponding to an amount of demand detected by the meter.***

For a proper rejection of a claim under 35 U.S.C. §103, the cited combination of references must disclose, teach, or suggest all elements/features/steps of the claim at issue. *See, e.g., In re Dow Chemical.*, 5 U.S.P.Q.2d 1529, 1531 (Fed. Cir. 1988) and *In re Keller*, 208 U.S.P.Q.2d 871, 881 (C.C.P.A. 1981). Applicant respectfully submits that amended independent claim 1 is allowable for at least the reason that *Davis* and *Ehlers* do not disclose, teach, or suggest at least “wherein the energy management controller determines a change in the demand detected by the meter before transmission of the demand reduction control signal and after the received RF signal corresponding to an amount of demand detected by the meter.”

Because amended independent claim 1 is allowable over the prior art of record, dependent claims 4-11 and 13-17 (which depend from independent claim 1) are allowable as a matter of law for at least the reason that dependent claims 4-11 and 13-17 contain all the steps/features of independent claim 1. *See Minnesota Mining and Manufacturing Co. v.*

*Chemque, Inc.*, 303 F.3d 1294, 1299 (Fed. Cir. 2002) *Jeneric/Pentron, Inc. v. Dillon Co.*, 205 F.3d 1377, 54 U.S.P.Q.2d 1086 (Fed. Cir. 2000); *Wahpeton Canvas Co. v. Frontier Inc.*, 870 F.2d 1546, 10 U.S.P.Q.2d 1201 (Fed. Cir. 1989). Therefore, the rejection to claims 4-11 and 13-17 should be withdrawn and the claims allowed.

**CONCLUSION**

In light of the foregoing amendments and for at least the reasons set forth above, Applicant respectfully submits that all objections and/or rejections have been traversed, rendered moot, and/or accommodated, and that the now pending claims 1-64 are in condition for allowance. Favorable reconsideration and allowance of the present application and all pending claims are hereby courteously requested. If, in the opinion of the Examiner, a telephonic conference would expedite the examination of this matter, the Examiner is invited to call the undersigned agent at (770) 933-9500.

Respectfully submitted,



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